



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 27, 1995

Mr. Richard D. Monroe
Deputy General Counsel for Operations
Texas Department of Transportation
Dewitt C. Greer State Highway Bldg.
125 East 11th Street
Austin, Texas 78701-2483

OR95-985

Dear Mr. Monroe:

On behalf of the Texas Department of Transportation, you ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31992.

The requested information is a single document that you claim is excepted from required public disclosure under Government Code section 552.111. By a letter to you from this office dated March 6, 1995, we notified you that you had not marked the document "to identify the portions that consist of opinion, advice, and recommendation," and we reminded you that "[s]everable factual information is not excepted from disclosure to the public by section 552.111." By a letter to this office dated April 28, 1995, you responded that the document "is structured in such a way that conclusions, advice, and opinions permeate the document in such a way that the entire document is entitled to the benefit of Sec. 552.111," and you accordingly have not marked the document.

Section 552.111 of the Government Code excepts interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policymaking process. Open Records Decision No. 615 (1993) at 5. The purpose of this section is "to protect from public disclosure advice and opinions *on policy matters* and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.) (emphasis added). In Open Records Decision No. 615 this office concluded that

to come within the [section 552.111] exception, information must be related to the *policymaking* functions of the governmental body. An agency's policymaking functions do not encompass routine internal administrative and personnel matters

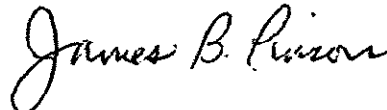
Open Records Decision No. 615 (1993) at 5.

Section 552.111 does not protect facts and written observations of facts and events that are severable from advice, opinions, and recommendations. *Id.* If, however, the factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make separation of the factual data impractical, that information may be withheld. Open Records Decision Nos. 313 (1982), 295 (1981).

We have reviewed the document and find that it consists solely of factual information and contains no advice, opinion, or recommendation. Additionally, none of the contents of the document appear to be related to the policymaking functions of the Texas Department of Transportation. We accordingly conclude that you may not withhold any part of the document from public disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



James B. Pinson
Assistant Attorney General
Open Records Division

JBP/RHS/rho

Ref.: ID# 31992

Enclosures: Submitted documents

cc: Mr. Luke Sanchez
Byram Properties
510 South Congress Avenue, Suite 400
Austin, Texas 78704
(w/o enclosures)